



VITRO Flat Glass LLC
400 Guys Run Road Cheswick, Pennsylvania 15024 USA

June 15, 2020

GENERAL TERMS AND CONDITIONS OF SALE
FOR BUYERS OF VITRO FLAT GLASS PRODUCTS

PARTIES:

The seller shall be referred to as **VITRO**. The buyer shall be referred to as **BUYER**.

ORDER ACCEPTANCE:

All orders are subject to final acceptance by **VITRO** and are subject to all and only these General Terms and Conditions of Sale or such replacement of these General Terms and Conditions of Sale as are provided to **BUYER** prior to placement and acceptance of an order.

VITRO objects, in advance, to any terms and conditions set forth in any of **BUYER**'s contract documents, specifications, or purchase orders that may be provided to **VITRO** prior to, contemporaneous with or subsequent to the specific order from **BUYER**, and **VITRO** shall not be bound by any such terms.

UNIT OF SALE:

Orders for Products shall only be accepted for shipment in full truckload units. Products available from the same **VITRO** factory may be combined to make a unit of sale. Orders for less than a full truckload weight of 38,000 pounds must be requested in writing and may be allowed in **VITRO**'s sole discretion and, if allowed will be subject to an extra delivery charge of \$750US per truckload.

Orders placed and shipped the same day shall be subject to an additional expedited shipping fee of \$600US per truckload.

PRODUCT AVAILABILITY:

Projected schedules and lead time estimates for any order are **VITRO**'s best estimate and are subject to revision as backlog and production capacity relationship change and as other variables affect the production process. **BUYER** must monitor projected ship dates with **VITRO** representatives regularly in order to be assured of the most recent information available on ship dates. Not all **VITRO** products are inventoried and some products may only be available certain times of the year.

PRODUCE-TO-ORDER (PTOs) PROGRAM:

Purchases of Products that: (i) are not included in a written **BUYER** Stocking Program agreement with **BUYER**, executed by **VITRO**, or (ii) have exceeded the amounts covered by a written **BUYER** Stocking Program agreement, or (iii) which **VITRO** does not inventory as part of its standard product inventory ("SPI") offering (visit www.vitroglazings.com for SPI list), will be considered a Produce-to-Order ("PTO") purchase. PTO purchases require a **BUYER** purchase order and an agreed upon delivery date before production will be scheduled. Should **BUYER** not take delivery of PTO products within 90 days after the delivery date elected by **BUYER**, the **BUYER** shall pay for and take such PTO products or pay for such PTO products and any associated disposal costs.

BUYER STOCKING PROGRAMS:

VITRO, at its sole discretion and option, may agree to provide **BUYER** a formal **BUYER** Stocking Program for some or all of the anticipated high-volume glass purchases. **VITRO** and **BUYER** will agree on a schedule to have **VITRO** place into stock any single stock keeping unit (“SKU”) that could fill at least one (1) rack or five (5) PAKs, for those products supplied in PAKs, per month.

BUYER and **VITRO** shall agree on a forecasted demand for each stocked SKU. The forecasted demand shall include at a minimum a monthly purchase rate for each month and the parties may agree to amend the monthly purchase rate as appropriate throughout the year. Additional SKUs may be added to **BUYER** Stocking Program during the term of this Agreement if such SKUs are mutually agreed to by **BUYER** and **VITRO** and meet the requirements of the program.

If **BUYER**'s actual monthly purchase rate of a stocked SKU is below the forecasted purchase rate for three (3) consecutive months, **VITRO** shall have the right to amend **BUYER** Stocking Program to delete that SKU from **BUYER** Stocking Program.

Upon expiration of **BUYER** Stocking Program Agreement, **BUYER** shall take delivery of, and pay for, any inventory placed into stock or pay for the stocked Product and any associated disposal costs within sixty (60) days of the termination date. Any purchases by **BUYER** of the Products that are placed in stock shall first be satisfied from the stock established by **VITRO**.

FOOTAGE CHARGED:

Product will be billed at the size specified except that in the event that fractions of inches are specified, such Products will be billed at the next higher full inch dimension.

FEES AND SURCHARGES:

Any orders accepted and invoiced are subject to the addition of any or all of **VITRO**'s prevailing surcharges as published quarterly to the industry and fees, including, but not limited to, diesel, energy and freight surcharges, expedited shipping fee and implicate other fees.

TAXES:

Any taxes or other governmental charge upon the production, sale, and/or shipment of Products shall be added to each invoice and shall be paid by **BUYER**. The amount of any such taxes or charges is not eligible for any cash or other discount.

PRICE QUOTATIONS:

Prices are quoted in U.S. Dollars unless otherwise noted in writing on the quotation.

QUOTATION REVISIONS:

Quotations are based on quantities, sizes (when required) and product requirements received from **BUYER** at the time of the quote. If the quantity, sizes, time frame of production and shipping, or types of products specified in a quotation are changed in any respect when the order is received from **BUYER**, a revision of the prices set forth in the quotation will result. If such a revision occurs, a new purchase order will need to be issued covering those price changes.

COPY OF QUOTATION AT TIME OF BUYER ORDER:

If a quotation has been issued by **VITRO**, a copy of this quotation or the quotation number must accompany each of **BUYER**'s orders to ensure proper invoicing.

PAYMENT TERMS:

United States and Canada buying locations: Net 30 days from date of shipment.
Mexico: DAP Laredo, Texas: Cash in Advance.

PRICE PROTECTION:

VITRO may, in its sole discretion, agree in writing to price protect products of 5.0.0mm (3/16”) or greater for Commercial Construction projects (as defined by F.W. Dodge). All **BUYER** requests for price protection must include: Project names, applicable product and quantities and other documentation reasonably required by **VITRO**. If **VITRO** agrees in writing to price protect such Products, the terms of such protection shall be set forth by **VITRO** in the writing.

INTERLEAVING:

The standard separator for all Products is powdered interleaving material. **VITRO** reserves the right to change its separator medium at its discretion without notification.

PACKAGING:

Each container will be loaded with only one size, color, thickness, and type of Product unless notified in advance by **VITRO**. All quoted prices include standard packaging. Standard packaging is a 4,000-pound capacity steel rack or V-PAKs. Containers less than 4,000 pounds capacity may be available, at **VITRO**'s discretion at a 25% price premium. **BUYER** may also request 4,000 pound capacity wood cases in lieu of the standard steel rack. If **VITRO** agrees to do so such containers are considered non-standard containers and are subject to a charge of \$175US per case. Other non-standard packaging requests will be reviewed for possible acceptance but would be subject to additional charges depending on the scope of the request.

STEEL RACK PROGRAM:

When Product is supplied to **BUYER** on **VITRO** steel racks, **VITRO** shall retain title to the racks and gates. These racks and gates are to be returned to **VITRO** within forty-five (45) days from the original date of shipment. Return shipments are to be in full truckloads, unless otherwise agreed to by **VITRO**. At **VITRO**'s option, **VITRO** will either grant a rack return allowance and credit this allowance directly to **BUYER**, or **VITRO** will pay the return freight to our source plant. The rack return allowance is determined individually for each **BUYER**, based on, but not limited to, geographic location. In the event the rack returns are from a location other than **BUYER**'s “Ship To” location and additional freight costs are incurred, the additional cost will be invoiced to **BUYER**.

The racks are to be used by **BUYER** solely in connection with and to facilitate the delivery of Products sold to **BUYER** by **VITRO** and for no other uses, **including without limitation, work in process or finished goods inventory, raw material storage and any other storage or shipment of BUYER or third party products.** Racks and gates must be returned in the same condition as they are received, utilizing acceptable stacking and securing standards as provided by **VITRO**. Failure to return racks and gates in the same condition as they are received will result in repair charges invoiced to **BUYER**.

Failure of **BUYER** to return racks and gates within the forty-five (45) days defined above will result in a demurrage charge which will be invoiced to **BUYER**. Demurrage charges will be calculated as follows: A charge of \$49US per rack will be invoiced monthly for each rack that has not been received back by **VITRO** and credited to **BUYER**'s outstanding rack balance. Additionally, a charge of \$9US per gate will be invoiced monthly for each gate that has not been received back by **VITRO** and credited to **BUYER**'s outstanding gate balance. Payment terms for this invoice will be 15 days. Failure to either return the past due racks and gates in their entirety within the terms of this invoice or to make full payment of this invoice will lead to a hold being placed on future shipments.

Should **VITRO** and **BUYER** agree that a steel rack and/or gate will not be returned to **VITRO** in the future, each rack of this type will be invoiced at a charge per rack of \$750US. Each gate of this type will be invoiced at a charge per gate of \$125US. **BUYER**'s outstanding rack and gate

balance will be reduced for each rack and gate invoiced in this manner. Payment terms for this invoice will be 15 days. Failure to provide full payment of this invoice will lead to a hold being placed on future shipments.

FORCE MAJEURE:

A) Except for **BUYER**'s payment obligations, neither party shall have any liability to the other for failure or inability to perform its obligations hereunder, or for delay in performance, if caused by "force majeure" as hereinafter defined; provided, however, that the party affected by force majeure (the "Claiming Party") shall promptly notify the other of the nature and effect of the force majeure and the expected delays. Any force majeure event shall be remedied with all reasonable dispatch and the Claiming Party shall promptly notify the other party when the force majeure event has ceased to affect its performance obligations. As used herein, the term "force majeure" shall mean and include any Act of God, nature or the public enemy, accident, explosion, operation malfunction or interruption, fire, storm, earthquake, flood, drought, pandemic, epidemic, perils of the sea, strikes, lockouts, labor disputes, riots, sabotage, embargo, war (whether or not declared and whether or not the United States is a participant), government action or compliance therewith, failure or delay of transportation, shortage of, or inability to obtain, raw materials, supplies, equipment, fuel, power, labor, or other operational necessity, interruption or curtailment of power supply, or any other circumstance of a similar or different nature beyond the reasonable control of the Claiming Party. The Claiming Party shall not be required to resolve labor disputes, or disputes with its suppliers, or seek alternate sources, except in the Claiming Party's sole discretion.

B) If **VITRO** is the Claiming Party, **VITRO** may reduce the quantity of Product delivered hereunder, at its sole discretion. For so long as its ability to perform hereunder is affected by force majeure, **VITRO** may, at its option, elect to allocate its total production of such Product among its various requirements (e.g. manufacturing and sales) and/or its other customers, in such manner as **VITRO** deems fair and practicable. During the time that **VITRO** is the Claiming Party, it shall not be obligated to procure any quantity of Product sold hereunder from any alternate producer or supplier. For the avoidance of doubt, because **VITRO** operates numerous glass facilities in concert with each other, a force majeure occurrence or event at any one of **VITRO**'s glass manufacturing facilities shall constitute a force majeure event at all of its glass manufacturing facilities even if Products purchased by **BUYER** are not manufactured at the facility that directly suffered such occurrence or event. If a force majeure affects the Claiming Party's performance obligations under these General Terms and Conditions of Sale for a period of sixty (60) days or more, **VITRO** may terminate these General Terms and Conditions of Sale effective immediately upon written notice.

QUALITY CRITERIA:

Cut Sizes - Cut size glass products shall be graded according to the applicable provisions of ASTM C1036 Type 1, Q3. Heat Strengthened (HS) and Fully Tempered (FT) glass products shall be produced according to applicable provisions of ASTM C1048 Kind HS or FT Condition A or C.

Lehr Ends and Special Stock Sizes (STC): Lehr Ends and Special Stock Size glass products shall be graded according to the applicable provisions of ASTM C1036 Type 1, Q3 "Stock Sheets". **VITRO** assumes products purchased as stock sheets will be further selectively cut into Cut Size quality. The purchaser bears all responsibility for selecting Cut Size glass in conformance with Cut Size quality from stock sheet glass.

Coated Glass Products: Coated glass products shall be produced according to the applicable provisions of ASTM C1376.

FREIGHT:

Freight charges for shipments of Products shall be the responsibility of **BUYER** unless specific agreement has been made between **VITRO** and **BUYER**.

All shipments of Products are made F.O.B., **VITRO** factory. All shipments are made at **BUYER**'s risk of breakage, loss or damage.

Claims for breakage, loss or damage in transit must be made against the carrier by **BUYER**. Special transportation requests are subject to additional charges and include, but are not limited to, delivery drop offs at **BUYER** locations in addition to the primary delivery point. The charge for each drop off location within the State of the primary delivery point will be \$400US, for out of State drop off shipments the charge will be \$600US for each additional location.

USE OF PRODUCTS:

It is the sole responsibility of **BUYER** to determine the suitability of any purchased product for its use. **VITRO** employees and agents are not authorized to determine if a product is suitable for use.

TECHNICAL REFERENCE:

For guidance regarding selection, installation, use, and maintenance of **VITRO** Flat Glass products to meet your requirements and those of your customers, please see currently applicable **VITRO** technical literature as well as local, state, and federal regulations. Technical literature and Environmental, Health and Safety information is available on the **VITRO** website at www.vitroglazings.com or upon request.

WARRANTY:

THE SOLE AND EXCLUSIVE WARRANTY FOR EACH PRODUCT SOLD BY **VITRO** IS GOVERNED BY A SEPARATE, PUBLISHED DOCUMENT ISSUED BY **VITRO**. EACH SUCH DOCUMENT IS AVAILABLE UPON REQUEST, AND IS INCORPORATED AND MADE A PART HEREOF AS IF FULLY WRITTEN HEREIN. EXCEPT AS SET FORTH IN THIS WARRANTY SECTION, **VITRO** MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY OF ANY KIND REGARDING ANY PRODUCT, WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ANY OTHER MATTER AND **BUYER** IS PROHIBITED FROM MAKING ANY EXPRESS OR IMPLIED WARRANTY TO ANY THIRD PARTY OR END USER ON BEHALF OF **VITRO**.

VITRO hereby disclaims and assumes no responsibility for (i) glass breakage, (ii) improper usage, (iii) improper storage of Product (iv) failure of a Product on account of faulty installation or building construction or design, (v) improper handling or failure to follow **VITRO**'s instructions regarding the Product and (vi) Product that is installed, used or consumed outside of North America. Further, **VITRO** assumes no responsibility for scratches or abrasions of any kind, including without limitation, those which may occur as a result of abnormal weather conditions, if abrasive cleaners are used on the surfaces, or if acids, alkalis or other chemicals are used to wash the glass or surfaces around the glass.

LIMITATION OF LIABILITY:

In the event any Product fails to conform to the applicable representation and warranty, **VITRO**'s exclusive obligation and **BUYER**'s exclusive remedy shall be limited to, at **VITRO**'s option: (i) replacement of the nonconforming Products at **VITRO**'s expense; or (ii) a refund of the purchase price attributable to a specific delivery as to which a claim is made and transportation charges for such specific delivery.

EXCEPT AS SET FORTH IN THE IMMEDIATELY PRECEDING SENTENCE, **VITRO** SHALL NOT HAVE ANY LIABILITY FOR THE SALE OF, OR THE INABILITY TO SELL, PRODUCT OR FOR THE USE OF PRODUCT FOR ANY REASON UNDER ANY THEORY OF RECOVERY, WHETHER BASED ON NEGLIGENCE OF ANY KIND, STRICT LIABILITY, CONTRACT OR TORT OR FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOST PROFITS.

TERMS AND CONDITIONS GOVERNING SALE:

Except as otherwise provided in these General Terms and Conditions of Sale and in any other written documents actually signed by the party who is assuming an obligation or liability (“Governing Documents”), the terms and conditions of the sale of Products from **VITRO** to **BUYER** shall be fully governed and controlled only by the Pennsylvania Uniform Commercial Code (“UCC”) in effect as of the date of sale. In the event the Governing Documents are an addition to or in conflict with or inconsistent with the UCC, then such documents shall govern and control and take precedence over the provisions of the UCC. The United Nations Convention on International Sale of Goods does not apply to sales governed by these General Terms and Conditions of Sale.

WAIVER:

The decision or failure of either party to enforce at any time any provision of this Agreement herein shall not constitute a continuing waiver of that or any other provision, nor affect the validity of such provision or the right of such party to later enforce each and every provision herein.

DISPUTES:

Except for claims by **VITRO** for payment of the monetary amount due arising from the sales of Flat Glass Products to **BUYER**, any other dispute arising out of or relating to the sale of Flat Glass Products, or the performance of such Products covered by these General Terms and Conditions of Sale, the Governing Documents or the UCC shall be resolved initially by either, or both, good faith negotiations between the parties assisted by a mediator if the parties agree. If these procedures do not resolve the dispute, the parties may then resort to other forms of legal process, including litigation.

TERMS AND CONDITIONS:

These General Terms and Conditions of Sale may be amended or changed by **VITRO**, at its sole discretion. Such changes shall not apply to any Order accepted by **VITRO** prior to the effective date of the change.

BANKRUPTCY:

In the event that **BUYER** files or has filed against it a petition for relief under title 11 of the United States Code (the “Bankruptcy Code”), **VITRO** shall have the right to change the payment terms of any further shipments to “cash in advance”, or “cash on delivery”, as **VITRO** may determine to be appropriate in its sole and exclusive discretion. **VITRO**, in its sole and exclusive discretion, shall have the rights to stop any shipments of goods then in transit to **BUYER**, and thereby exercise an immediate right of possession thereto. **VITRO**, in its sole and exclusive discretion, shall have the right to institute an administrative freeze on the payment of any sums due and owing from **VITRO** to **BUYER** under any agreement between the parties, and **BUYER** hereby consents to relief from the automatic stay being granted to **VITRO** under Bankruptcy Code Section 362(d), on the filing of any appropriate motion, to effect setoff of any sums due and owing from **VITRO** to **BUYER** against any sums due and owing from **BUYER** to **VITRO**.

EXPORT CONTROLS:

The parties acknowledge that they as well as the Product sold or otherwise transferred under these General Terms and Conditions of Sale may be subject to U.S. and other export controls

(including deemed export and re-export) requirements, embargoes, sanctions and similar laws, regulations and requirements applicable to exports (“Export Requirements”). The parties agree that **VITRO**’s sale or supply of the Product as well as its use, transfer or resale by **BUYER** is subject to these Export Requirements, and **BUYER** agrees to understand and to comply with these Export Requirements. Additionally, **BUYER** agrees, that upon the request of the **VITRO**, **BUYER** shall provide **VITRO** with all information and documentation deemed necessary by **VITRO** for **VITRO** to comply with all such Export Requirements. Further, **BUYER** agrees to create and to maintain records to reflect compliance with the Export Requirements and to allow any post-export verification requested by **VITRO** or the U.S. Government and to cooperate in any investigation related to these Export Requirements.

REFORMATION:

If any provision of these General Terms and Conditions of Sale is determined to be illegal or unenforceable for any reason, that provision shall be reformed to the maximum extent permitted to preserve the parties' original intent. If the provision cannot be reformed in a way that preserves the parties' original intent, it will be deleted and severed from the General Terms and Conditions of Sale with the balance of the General Terms and Conditions of Sale continuing in full force and effect.



VITRO Flat Glass LLC
 400 Guys Run Road Cheswick, Pennsylvania 15024 USA

Standard Product Inventory

Thickness	Color	Coating
6.0MM	Acuity™ Glass	Non Coated
8.0MM	Acuity™ Glass	Non Coated
6.0MM	Acuity™ Glass	Solarban® 70 Glass
2.5MM	Clear	Non Coated
3.0MM	Clear	Non Coated
3.2MM	Clear	Non Coated
4.0MM	Clear	Non Coated
5.0MM	Clear	Non Coated
6.0MM	Clear	Non Coated
10.0MM	Clear	Non Coated
12.0MM	Clear	Non Coated
2.5MM	Clear	Solarban® 60 Glass
3.0MM	Clear	Solarban® 60 Glass
4.0MM	Clear	Solarban® 60 Glass
5.0MM	Clear	Solarban® 60 Glass
6.0MM	Clear	Solarban® 60 Glass
2.5MM	Clear	Solarban® 70 Glass
3.0MM	Clear	Solarban® 70 Glass
5.0MM	Clear	Solarban® 70 Glass
3.0MM	Clear	Sungate® 400 Glass
3.2MM	Clear	Sungate® 400 Glass
4.0MM	Clear	Sungate® 400 Glass
4.9MM	Graylite® II Glass	Non Coated
6.0MM	Graylite® II Glass	Non Coated

Thickness	Color	Coating
6.0MM	Optiblue® Glass	Non Coated
6.0MM	Optigray® Glass	Non Coated
6.0MM	Pacifica® Glass	Vistacool® Glass
6.0MM	Pacifica® Glass	Non coated
6.0MM	Solarblue® Glass	Non Coated
3.2MM	Solarbronze® Glass	Non Coated
5.0MM	Solarbronze® Glass	Non Coated
6.0MM	Solarbronze® Glass	Non Coated
10.0MM	Solarbronze® Glass	Non Coated
6.0MM	Solarbronze® Glass	Solarcool® Glass
3.2MM	Solargray® Glass	Non Coated
5.0MM	Solargray® Glass	Non Coated
6.0MM	Solargray® Glass	Non Coated
4.0MM	Solargray® Glass	Solarcool® Glass
6.0MM	Solargray® Glass	Solarcool® Glass
6.0MM	Solexia® Glass	Non Coated
3.2MM	Starphire® Glass	Non Coated
5.0MM	Starphire® Glass	Non Coated
6.0MM	Starphire® Glass	Non Coated
10.0MM	Starphire® Glass	Non Coated
12.0MM	Starphire® Glass	Non Coated
6.0MM	Mirror	